

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:10-HC-2061-D

CHRISTOPHER ANDREW MOORE,)
Petitioner,)
v.)
WARDEN TRACY JOHNS,)
Respondent.)

ORDER

On April 16, 2010, Christopher Andrew Moore (“Moore” or “petitioner”) filed a petition for writ of habeas corpus [D.E. 1] under 28 U.S.C. § 2241 (“section 2241”) challenging his present confinement. Moore is confined at the Low Security Federal Correctional Institution in Butner, North Carolina, pending commitment proceedings against him by the government under 18 U.S.C. § 4248 (“section 4248”) in United States v. Moore, No. 5:07-HC-2050-D (E.D.N.C.). The section 4248 action remains pending.

On December 6, 2010, the United States Court of Appeals for the Fourth Circuit held that a person against whom a commitment action under section 4248 has been initiated must exhaust all remedies within the section 4248 action prior to seeking a writ of habeas corpus under section 2241. Timms v. Johns, 627 F.3d 525, 533 (4th Cir. 2010). Thus, the Fourth Circuit’s decision in Timms controls the disposition of Moore’s petition for writ of habeas corpus.

Accordingly, the petition for writ of habeas corpus [D.E. 1] is DISMISSED WITHOUT PREJUDICE. Petitioner’s motion to stay proceedings [D.E. 9], and respondent’s motion to dismiss

[D.E. 10] and motion to stay proceedings [D.E. 14] are DENIED AS MOOT. The clerk is DIRECTED to close the case.

SO ORDERED. This 1 day of February 2011.



JAMES C. DEVER III
United States District Judge